

FISCAL NOTE

HB 3834 - SB 3842

March 14, 2006

SUMMARY OF BILL: Increases the classification and length of sentences for various offenses relating to carrying a firearm with the intent to go armed. Eliminates the current Class A misdemeanor offense of carrying a handgun at a place open to the public where one or more persons is present.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Net Impact - \$31,981,200/Incarceration*

Assumptions:

- According to the U.S. Census Bureau, population growth in Tennessee has been 1.09 percent per year for the past 10 years, yielding a projected compound population growth of 13.6% over the next ten years.
- According to the Department of Correction (DOC), the average operating cost per inmate per day for calendar year 2006 is \$50.02.
- According to the Administrative Office of the Courts (AOC), there were 650 misdemeanors for the unlawful carrying or possession of a weapon. DOC estimates that 50% of the 650 misdemeanors (325) would be for illegal possession of a firearm.
- Five percent (16) of the 325 misdemeanors offenses would be third or subsequent offenses and would be elevated to Class E felony offenses and would be required to serve a minimum of 150 days. Sixteen persons will be convicted of these Class E felony offenses in the first year. Population growth of 1.09 percent per year will result in two additional offenders charged with this Class E felony offense in the tenth year as a result of this bill. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 18 offenders serving 150 days. The cost per inmate is \$7,503 (\$50.02 x 150 days). The total additional operating cost for 18 offenders is \$135,054 (\$7,503 x 18).
- According to DOC, there were 96 admissions for possession of a weapon by a convicted felon as the primary offense. 90 percent (86) would be convicted of Class E felony offenses and would serve one year (an increase from 0.3 years to one year). Ten percent (10) would be convicted of Class D felony offenses and would serve two years (an increase from 0.3 years to 2 years).

- Eighty-six persons will be convicted of a Class E felony offense in the first year and by the tenth year, due to population growth, there will be ten additional offenders. The maximum cost in the tenth year is based on 96 offenders serving an additional 0.7 years. The cost per inmate is \$12,788.86 ($\50.02×255.68 days). The total additional operating cost for 96 offenders is \$1,227,730.56 ($\$12,788.86 \times 96$). Ten persons will be convicted of a Class D felony offense in the first year and by the tenth year, due to population growth, there will be one additional offender. The maximum cost in the tenth year is based on 11 offenders serving an additional 1.7 years. The cost per inmate is \$31,058.91 ($\50.02×620.93 days). The total additional operating cost for 11 offenders is \$341,648.01 ($\$31,058.91 \times 11$).
- According to DOC, 2.86% of the inmate population in FY05 had possession of weapon-convicted felon as a secondary offense. Annual admissions for FY05 were 13,624 and two percent (272) were convicted of this offense. 90% (245) will be convicted of a Class E felony offense in the first year and by the tenth year, due to population growth, there will be 28 additional offenders. The maximum cost in the tenth year is based on 273 offenders serving one year. The cost per inmate is \$18,269.81 ($\50.02×365.25 days). The total additional operating cost for 273 offenders is \$4,987,658.13 ($\$18,269.81 \times 273$). Ten percent (27) will be convicted of Class D felony offenses in the first year and by the tenth year, due to population growth, there will be three additional offenders. The maximum cost in the tenth year is based on 30 offenders serving two years. The cost per inmate is \$36,539.61 ($\50.02×730.50 days). The total additional operating cost for 30 offenders is \$1,096,188.30 ($\$36,539.61 \times 30$).
- Ten percent of the 325 (32) firearm misdemeanor dispositions would have been committed by a convicted felon and would have been a misdemeanor and a secondary offense. 32 persons will be convicted in the first year and by the tenth year, due to population growth, there will be an additional four offenders. The maximum cost in the tenth year is based on 36 offenders serving one year. The cost per inmate is \$18,269.81 ($\50.02×365.25 days). The total additional operating cost for 36 offenders is \$657,713.16 ($\$18,269.81 \times 36$).
- 165 inmates were convicted of Class C felony offenses for reckless endangerment with a deadly weapon as a primary offense. 50% of those (82) would involve firearms. Eighty-two persons will be convicted of a Class C felony offense in the first year and in the tenth year, due to population growth, there will be an additional nine offenders. The maximum cost in the tenth year is based on 91 offenders serving an additional 2.7 years. The cost per inmate is \$49,328.72 ($\50.02×986.18 days). The total additional operating cost for 91 offenders is \$4,488,913.52 ($\$49,328.72 \times 91$).

- 58 inmates were convicted of armed robbery with a deadly weapon as the primary offense. DOC estimates that 50% (29) of these would involve firearms. Twenty-nine offenders would be convicted of a Class C felony offense in the first year. In the tenth year, as a result of population growth, there would be three additional offenders serving 1.5 years (a decrease from 2.4 years for a Class B felony offense to 0.9 years for a Class C felony offense). The maximum cost in the tenth year is based on 32 offenders serving 1.5 years. The cost per inmate is \$27,404.96 (\$50.02 x 547.88 days). The decrease in operating cost for 32 offenders is \$876,958.72 (\$27,404.96 x 32).
- 29 persons will be convicted of a Class C felony offense for simple robbery in the first year and in the tenth year, due to population growth, there will be three additional offenders serving a consecutive sentence of three years. The maximum cost in the tenth year is based on 32 offenders serving 3.0 years. The cost per inmate is \$27,404.96 (\$50.02 x 547.88 days). The total additional operating cost for 32 offenders is \$876,958.72 (\$27,404.96 x 32).
- 78 inmates were convicted of voluntary manslaughter as the primary offense. DOC estimates that 20 of those offenses involved the use of a firearm. Twenty persons will be convicted of a Class C felony offense of voluntary manslaughter involving a firearm in the first year. In the tenth year, due to population growth, there will be an additional two offenders convicted of this offense. The maximum cost in the tenth year is based on 22 offenders serving 3.0 years. The cost per inmate is \$54,809.42 (\$50.02 x 1095.75 days). The total additional operating cost for 22 offenders is \$1,205,807.24 (\$54,809.42 x 22).
- 908 inmates were convicted of aggravated assault. DOC estimates that 25% (227) involved a weapon and 50% (114) of those offenses involved a firearm. 114 persons would be convicted of a Class C felony offense in the first year and in the tenth year, due to population growth, an additional 13 persons would be convicted of this offense. The maximum cost in the tenth year is based on 127 offenders serving an additional 2.1 years (an increase from 0.9 years to 3.0 years). The cost per inmate is \$38,366.84 (\$50.02 x 767.03 days). The total additional cost is \$4,872,588.68 (\$38,366.84 x 127).
- 170 inmates were convicted of reckless aggravated assault offenses. DOC estimates that 50% (85) involved a weapon and 50% (43) of those offenses involved a firearm. 43 persons would be charged with a misdemeanor rather than a Class D felony offense (a decrease from 0.6 years to 0.0 years). In the tenth year, due to population growth, an additional five persons would be charged with this offense as a misdemeanor. The cost savings from eliminating state incarceration of these misdemeanor offenders is \$526,170.38 (\$50.02 x 219.15 days x 48). 43 persons would be convicted of a Class C felony offense of use of a firearm during a crime in the first year. In the tenth year, due to

population growth, an additional five persons would be charged with this offense. The maximum cost in the tenth year is based on 48 offenders serving 3.0 years. The cost per inmate is \$54,809.42 (\$50.02 x 1,095.75 days). The total additional operating cost for 48 offenders is \$2,630,852.16 (\$54,809.42 x 48).

- 61 inmates were convicted of the Class D felony of evading arrest/risk of death offenses. DOC estimates that 25% (15) involved a firearm. 15 persons would be convicted of this offense, elevated to the Class C felony of use of a firearm during a crime, in the first year. In the tenth year, due to population growth, there would be an additional two persons convicted of this offense. The maximum cost in the tenth year is based on 17 offenders serving 2.4 additional years. The cost per inmate is \$43,847.52 (\$50.02 x 876.6 days). The total additional operating cost for 17 offenders is \$745,408.00 (\$43,847.52 x 17).
- According to DOC, 3.5% (678) of the current prison population (19,143) were convicted of possession of weapons as a secondary offense. 3.5% of the annual admissions for FY05 (477) would have to serve this sentence consecutively to any other sentence imposed. Eleven percent (52) persons would be convicted of a Class C felony offense in the first year. In the tenth year, due to population growth, an additional six persons would be convicted of this offense. The maximum cost in the tenth year is based on 17 offenders serving 3.0 years. The cost per inmate is \$54,809.42 (\$50.02 x 1,095.75 days). The total additional operating cost for 17 offenders is \$931,760.14 (\$54,809.42 x 17).
- 89% (425) persons would be convicted of Class E felony offenses in the first year and in the tenth year, due to population growth, an additional 49 persons would be convicted of this offense. The maximum cost in the tenth year is based on 474 offenders serving one year. The cost per inmate is \$18,269.81 (\$50.02 x 365.25 days). The total additional operating cost for 474 offenders is \$8,659,889.94 (\$18,269.81 x 474).

**Tennessee Code Annotated, Section 9-4-210, TCA, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based on the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director